

**FORT MYERS BEACH
TOWN COUNCIL
Town Hall – Council Chambers
2523 Estero Boulevard
Ft. Myers Beach, FL 33931
November 7, 2005**

I. CALL TO ORDER

Mayor Bill Van Duzer called a regular meeting of the Town Council to order on Monday, November 7, 2005 at 6:30 PM.

Members Present: Mayor Bill Van Duzer, Councilman Don Massucco, Councilman Garr Reynolds, Councilman Ken Katcko

Excused Absence: Vice Mayor Howard Rynearson

Staff Present: Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo, Director of Community Development Jerry Murphy, Town Attorney Anne Dalton

II. PLEDGE OF ALLEGIANCE

All present stood and recited the Pledge of Allegiance.

III. INVOCATION – Deacon “Scoop” Kiesel from Church of the Ascension

All present remained standing for the invocation given by “Scoop” Kiesel.

IV. PUBLIC COMMENT

Tom Babcock, of 5130 Williams Drive, came forward. Mr. Babcock commended the Town Council and the TMA for trialing new traffic solutions last season. He said the Park & Ride service proved that people could be encouraged to come to the Island without their cars. He said that although traffic on and off the Island did not improve, it did not mean the trial was unsuccessful. Although he saw no reason to discontinue the service as LeeTran and the TMA recommended, he did not think it should be funded by Town tax dollars. Mr. Babcock also commended the Council and the TMA for offering the on-Island trolleys fare-free to see if it positively impacted traffic. He felt LeeTran’s willingness to run trolleys on both services during the holidays was reasonable, as long as the Town did not subsidize increased Park & Ride service. Because the Bridge and San Carlos Boulevard are owned by the County, Mr. Babcock felt LeeTran should feel free to continue to evaluate the dedicated trolley lane concept, but the Town should not be expected to subsidize those trials. He said the County would not have known about the success of the Park & Ride had it not been for the initiative and financial support of the Town.

Dennis Boback, of 280 Donora Boulevard, came forward. Mr. Boback pointed out that the election was the next day, and urged Council to put off a decision on the trolleys until after it, so that the new Council – whoever that may be – was set in

place. He felt the present Council should not tie the hands of the new Council on something as important as the trolley issue, as it was, in his opinion, a major election issue, and should be handled by the next Council.

Marty Hartung, of 4191 Bay Beach Lane, #225, came forward. Ms. Hartung addressed the Council, the Town Manager, the Town Staff and volunteers of the Town. She commended their work regarding Hurricane Wilma. She said she had gotten lots of information from the Town's hotline and website, even though she had been in Ohio, and said it had worked very well. She felt all residents and visitors should feel very good about the Town's hurricane plan and the way in which it was carried out.

Charles Meador, of 112 Mango Street, came forward. Mr. Meador said he joined Mr. Boback in asking the Council not to make a decision regarding the trolley issue for the same reasons. He pointed out that funding of the Park & Ride had been voted down 5 – 0 by the Council the last time it had been on the agenda.

Bill Shenko, of 581 Carlos Circle, came forward. Mr. Shenko said he agreed with Tom Babcock and the prior speakers, but had been the first person to hand in a card requesting Public Comment time and probably would have been the first to speak if the names had been called in that order. He said this was neither the time nor the place to be deciding an issue that had been a campaign issue for several of the candidates running and the incumbents. He said that about 2,000 people were going to vote the next day to determine who would be on the Council, and he felt the present Council should not make decisions that would affect that Council. He also felt the present Council should look carefully into the County's proposal, which he said included a dedicated trolley lane not only over the Bridge, but down San Carlos Boulevard.

Pat Smith, of 50 Fairview Boulevard, came forward. Ms. Smith said there were two interesting topics on the agenda on the eve of the election – year-end financials and trolleys. Citing the package she had furnished to the Council for this meeting, Ms. Smith said it recapped the annual unaudited financials for last year. She gave many examples she felt illustrated the failure of the budget. Regarding the trolleys, she said she agreed 100% with Mr. Babcock. She said the Town spent more money on the trolleys than there had been available through the grants. She said that the Islanders paid plenty of taxes to the County, and that the last thing the Town should do is spend Town money to give free rides to people wanting to come to the Beach on the Park & Ride. She said last year's trial with the Park & Ride proved "beyond a shadow of a doubt" that it did not reduce traffic. She said it didn't prove that one car had been kept off the Island because of it, and that it just allowed people to come to the Beach for free who might not otherwise come, with the Town footing the bill. She urged the Council not to fund Park & Ride trolley service any further. She said if the County wanted to send people to the Beach, the County should pay for it. She said the reason some Islanders were at odds with Times Square merchants was because they expected the Island residents to support their businesses with their patronage, and also wanted

the Town to subsidize their businesses by paying for the transport of visitors onto the Island via the Park & Ride, along with special tax retention.

Tom Myers, of 21461 Widgeon Terrace, came forward. Mr. Myers said he was a member of the TMA, and read a letter from Frank Schilling, one of the TMA members, who was unable to attend the meeting due to a family medical situation. The gist of the letter was that the perception that the Park & Ride had been unsuccessful was not based on facts, and that there were incontestable, objective data from LeeDOT that point to a huge 2005 traffic mitigation result from the Park & Ride. Mr. Schilling said he had seen horrific traffic lines on Ft. Myers Beach each season of the 27 years he had been on the Island. Mr. Schilling had amassed from LeeDOT all the traffic counts onto Ft. Myers Beach for every hour of every day for every month for the last five years, including 2005, and had spent days compiling and analyzing it. Mr. Schilling said the data proved the vehicle count coming onto the Island in 2005 had not been the highest ever, even though critics were trying to say it was otherwise. Further, the data showed that the 2005 traffic coming onto the Beach had been lower than most of the past five years. Mr. Schilling related in his letter that Lee County had gone on record that Lee County had been up 15% in the 2005 season over 2004, and the raised tolls on Sanibel was considered to have caused a diversion of many to FMB. An independent survey commissioned by the TMA had further concluded that Sanibel diversion alone added 15% to the Island's traffic burden. The "bottom line", as Mr. Schilling called it in his letter, was that 2005 should have had, by leaps and bounds, the worst amounts of traffic on and off the Island, but Lee County data showed that it was one of the better years in terms of lower traffic vehicle counts. Mr. Schilling said that the only rational explanation for it was the 234,000 Park & Ride people who came on and off the Island in 2005 had eliminated "a ton" of vehicle traffic, which had been the aim of the TMA. Mr. Myers read that Councilman Katcko, Mayor Van Duzer, Vice Mayor Rynearson and two County Commissioners publicly had all championed the Park & Ride's success. Mr. Schilling's letter went on to say that now was not the time for misguided Town Council politics to scuttle the amazing success of Park & Ride, and that political flip-flops caused by a few loud and misguided critics was not the sign of real leadership that the Town needed. Mr. Schilling's letter continued that he relentless growth of Lee County would increasingly add to the Town's traffic burden, and public transportation was one of the few options for mitigation of it. Mr. Schilling warned that if the Park & Ride service was not up to speed for the 2006 season, the former Park & Ride visitors, the relentless Lee County growth, and the Summerlin construction would highlight the folly of the Council's inaction. He said the Council could also help mitigation of traffic by following his suggestion to engage the services of a full-time, fully qualified traffic engineer for one year, paid for by the County, but assigned full-time at Town Hall with the TMA on traffic. He said Lee County had 200 people working on Lee County's growth. He said such an engineer assigned to the Beach would add to Lee County's SmartGrowth effort. Mr. Schilling concluded his letter, as read by Mr. Myers, by calling for more help from the County. Mr. Myers said since the TMA had been formed it had tried many solutions to the traffic problems on the Beach; if they work, they are continued, and if they don't,

they are discontinued. He said the TMA was not a study committee, but an entity that tried things. He said expertise had always been a part of all the Town's committees, and invited critics of the committees to attend the meeting. He said there may not be a total solution to the traffic problem, but that the TMA worked hard on solutions and hoped the critics would come to the meetings to see how much they accomplished.

Tom Merrill, of 21581 Indian Bayou, came forward. Mr. Merrill said he was also a member of the TMA. He said the objective of the TMA was to find new ways to do things with regard to the traffic. He pointed out that, in the past, money had been spent on study after study, with no action taken; the TMA was founded to test things out to see what worked and what didn't. He said their mission was to reduce the traffic on the Island by trying ideas, one of which was to see if people could be encouraged to leave their cars off the Island by offering the beefed-up Park & Ride system. He said another approach had been to see if they could modify the traffic pattern on the Island, by installing the cameras so that people could view the current traffic conditions; another approach had been to try to eliminate the pedestrian/vehicle conflict in Times Square by diverting traffic going off the Island to another route. He said everything they had tried were tests, and had been working for over a year on them. He pointed out that Councilmen Massucco and Reynolds had been instrumental in the formation of the TMA, and that Councilman Katcko was a charter member of it. He said Mayor Van Duzer had supported them ever since its inception. Mr. Merrill said he had been a constant critic of the Town for years, because there had been no focus on what he considered the Town's number one problem – traffic. He said “we're all in this together” and felt something had to be done, and to pull back after one year and do nothing he felt would be ridiculous. He said that would put the Town back to where it had been, doing study after study but taking no action. He said there would never be any success at all if ideas, such as the Park & Ride, are dropped after one year of testing. He said when the TMA initially started the Park & Ride test, most people told them they would never get people to get out of their cars and onto public transportation, but it had been done. He said there were bugs and things that went wrong, but it was a test. He said that although they didn't get as many cars off the Beach as they would have liked, but the system had not had as many trolleys, or hours of operation, as they would have liked. He said the Island got “murdered” with cars because of the 15% Countywide growth in traffic and the increase of the Sanibel tolls. He said if there was a 15% rise in traffic countywide, and the Park & Ride got 5% of the cars off the road, of course there had been more cars on the Island by 10%. He said the numbers had not been the test, but that the test had been to see if they could get people out of their cars, and they had. He said the system might need changes, like the elimination of the dedicated trolley lane. He said it was time to start refining the system, not to abandon it. He said the “carrot” had been to give free service on and off the Beach, and the “stick” was to raise parking rates on the Beach to further discourage people from bringing cars onto the Island. He said the residents would not be paying the raised rates, as they would have parking passes. He said this idea would make it convenient to leave one's car off the Island, and inconvenient to bring one's car onto the Island. He said the Town had to move on a consistent effort to do something about the traffic, and it made no

sense to do it one year and then drop it. He said six trolleys were needed on the Park & Ride system, two of which had always been paid for by the County. He said the extra four would cost \$305,000, half of which the County would pay for. He said if the Town tied that to an increase in parking rates, the Town's \$150,000 share of the extra trolleys would be paid for out of the federal grant money, thus costing the Town nothing. He encouraged the Council to get past the political rhetoric connected with the Park & Ride program, and tying it into a real Park & Ride/Beach Trolley/raised parking rates package.

Pasqual Loffreno, of 8002 Estero Boulevard, came forward. Mr. Loffreno said he was a 32-year resident of the Island. He said there had been many meetings about traffic but nothing had been done for many years – over twenty. He said there would never be a solution on the Island because there was only one road, but asked the Town to make two lanes, of the three on the Bridge, one way going off the Island, 24/7 all year. He felt this was the simplest solution, and didn't understand why it couldn't be tried. He said subsidizing traffic didn't work and told the Council to forget about spending taxpayers' money. He assured them that the traffic would improve if two lanes were dedicated to one-way traffic leaving the Island via the Bridge. He felt everyone should pay their own way, without subsidies, and felt it was the American way to do things. He didn't understand why people would be given free passage on the trolleys. He said he was "sick and tired" of hearing about the traffic, and asked the Council not to pass a resolution to have the trolleys, as he felt it was not working to have them.

V. CONSENT AGENDA

A. Approval of Minutes:

- 1. September 26, 2005**
- 2. October 17, 2005**

B. Financials for the Month of September

C. Proclamation – Clinic for the Rehabilitation of Wildlife, Inc.

D. Transfer of CDBG Funds to the Senior and Afterschool Programs

Mayor Van Duzer entertained a motion. Councilman Massucco asked to pull Item D.

MOTION: Councilman Massucco made a motion to accept Items A, B and C. Councilman Katcko seconded the motion.

Councilman Reynolds asked Item A/#1 be pulled.

AMENDED MOTION: Councilman Massucco moved to accept Items A/#2, B and C. Councilman Katcko seconded the amended motion.

VOTE: The motion carried unanimously.

Regarding the Minutes of September 26th, Councilman Reynolds cited a sentence at the bottom of Page 30, in which the word "not" had been omitted incorrectly, as he

was happy a service was NOT in-house. He went on to recommend to all present and watching the meeting to read Pages 14 - 50 of the September 26th minutes as they contained copious amounts of information about the Park & Ride, and would answer a lot of people's questions about it, including why the vote had been 5 - 0 against funding the program.

Mayor Van Duzer cited Page 38, and pointed out that Mr. "Hall" was actually Mr. "Hill" – Brad Hill. Mayor Van Duzer asked Councilman Reynolds if he had any other corrections, and Councilman Reynolds said he didn't, but just wanted to direct peoples' attention to the Park & Ride discussion and vote that had taken place at that meeting. Mayor Van Duzer said he had reviewed that as well. Councilman Reynolds went on to say he had spoken with the Town Manager when he saw that the Park & Ride issue was going to appear on this agenda. Mayor Van Duzer asked Councilman Reynolds if he had found any other errors in the minutes, as it was not the time to begin discussion of the Park & Ride issue. Councilman Reynolds said he had found no other errors in the minutes.

MOTION: Councilman Reynolds made a motion to approve the minutes of September 26, 2005 with corrections. Councilman Massucco seconded the motion.

VOTE: The motion carried unanimously.

Regarding Item D – Transfer of the Community Block Grant Funds to the Senior and Afterschool programs – Councilman Massucco said that, according to the 2005-2006 budget, the Town had received about \$48,000 from HUD for the CDBG program. He said it was earmarked for a particular purpose. He asked if they could legally transfer a part of that grant for the purposes, and wondered if it would fall under the Public Service category.

Deputy Town Manager John Gucciardo said "absolutely". He said the agreement the Town had, getting the funds through the County, allowed the Town a certain amount of leeway. He said it was on the agenda to determine if Council was willing to change policy that had already been set with regard to allocating the funds. He said some of the funds went to housing rehab, but the bulk of the funds went to the service sector, which was primarily the senior program and the afterschool program, which he said were a lot more successful than the housing rehab program. He said the housing rehab program was important, but not "user friendly", which he thought was why there had been difficulty getting people enthused about it. Mr. Gucciardo asked the Council to consider using some of the money allocated for housing rehab. He said in last year's budget, it had been unused, but there was a time limit on use of it before it would be lost, and he hoped the Council would agree to move some of that money to this year's budget under Public Service – the senior program and the afterschool program. He said the County had no problem with that. Councilman Massucco said that was what he had been concerned about. He went on to ask when the 4.6 cutback had been made, as the original amount had been \$48,000. Mr. Gucciardo said that each year during the summer the Town usually got its allocation

from the County, and those figures came from HUD at the federal level. He said the Town had learned that its allocation would be slightly less this year during the County's budget process, and had factored that into this year's budget already. Mr. Gucciardo explained that the Council had already given approval to supplement those funds somewhat with Town funds because of the success of the senior and afterschool programs. He felt they were in good shape for the year, but felt it would be prudent to move the unused portion of the housing rehab dollars rather than risk losing them if they're not used.

Councilman Reynolds asked Mr. Gucciardo why the Council had not heard about the afterschool program, as he hadn't known it existed, nor did he know about the \$48,000. Mr. Gucciardo apologized to Councilman Reynolds, but explained that it had been a budgeted item for several years, and thought it was spelled out in narrative form in this year's budget, which he offered to point out to Councilman Reynolds. Mr. Gucciardo said the Town Council had set a policy that a bulk of the CDBG funds would be spent on public services, split into two separate categories – the senior program run through Bay Oaks, and the afterschool programs run through the various ministries on the Island. Councilman Reynolds asked Mr. Gucciardo if, in the future, the people running those programs could come to the Council meeting to present how their programs were going to operate, before the Council voted to give them money. Mr. Gucciardo said it was Councilman Reynolds' prerogative to ask for that. He said he did not remember that having come up during the budget process, but it could be done in the future.

MOTION: Mayor Van Duzer made a motion to approve the transfer of the CDBG funds from the housing rehab program to the senior and afterschool programs. Councilman Massucco seconded the motion.

VOTE: The motion carried unanimously.

VI. ADMINISTRATIVE AGENDA

A. Update of Possible Increase of Bed Tax

Mayor Van Duzer understood that no one would be giving an update on the bed tax issue at this meeting. Ms. Segal-George said the Councilmen had all received the power-point presentation the DT had done, and had hoped that "he" would be available to make the presentation at this meeting, but "he" had been unavailable. He said the Board of County Commissioners had discussed it that day at their Management and Planning meeting, and it appeared pretty likely that they would approve the increase. She said there had been a lot of discussion about the hurricane situation at the TDC meeting on Friday, especially about their advertising issues. She said they had felt that the increase would help pay for advertising. She said the issue had been put on the agenda with the idea that someone would make a presentation so that if the Council were interested in making a recommendation to the Board of County Commissioners, they would have the opportunity. She said they had the information, but there was no one available to make the presentation or answer questions.

Mayor Van Duzer said they had recently made a presentation about the bed tax increase, but remembered that it had been done at a board meeting for the Chamber.

Mr. Gucciardo had listened in on the Management and Planning session in which the increase had been discussed, and his impression was that the Board was going to approve the 5 cents. He said it seemed that the driving force behind that was a logistical one, in that incremental increases would necessitate a lot of paperwork and billing changes each time it was raised. He said the increase was an additional two cents to the existing 3 cents already in place.

Mayor Van Duzer understood that some of the additional funds collected would go toward the Beach's renourishment program, as well as some of the Town's maintenance programs.

Mr. Gucciardo's understanding was that the additional funds collected would still be split up under the same percentage as they had in the past, which would still result in more dollars being available for those programs. He didn't think the Town could expect more dollars for the beach renourishment program particularly, because it would be based on whatever the contractor's price would be. But, he said there would be more money in that pool for additional monitoring, or renourishments at some point in the future. For these reasons, he felt the bed tax increase could be valuable to the Town at some point.

Councilman Massucco said he had some concerns with the increase, and felt he would probably be accused of going against business because of those concerns. He said if the increase was approved, it was going to go toward worldwide advertising campaign. He said the Town was still suffering the effects of Hurricane Charley, a red tide and blue/green algae problem that didn't seem to want to go away, a horrendous traffic problem. He felt saying to the world "Come to Ft. Myers Beach. We're perfect. We want you. Come on down. There's no problems here" was deceptive, and was not sure he wanted to be a part of that. He said the Beach was far from perfect – three or four hotels were closed and there would be a shortage of accommodations. He felt the problems were being pushed aside, and reiterated that he didn't want to be a part of that. Councilman Massucco went on to say that once the tax was raised, it would never come back down or go away. He said he was not in favor of the increase, and although he knew he personally couldn't stop it, he wanted to point out that it seemed a deceptive method in his opinion.

Councilman Reynolds agreed with Councilman Massucco, and felt businesses would perceive Councilman Massucco's stance as being pro-business, not anti-business as Councilman Massucco feared. Councilman Reynolds didn't think the motels, hotels and rentals looked forward to being taxed another 2%. He expressed disappointment that no one from the Beach businesses or the Chamber of Commerce was there to give any input on the issue at this meeting, as they were the ones that would be "hit"

with the increase. He thought the Council's opinion on the increase was being sought, and in his opinion, the TDC collected enough taxes already.

Councilman Katcko had asked to have the issue put on the agenda several weeks prior to this meeting, but with Hurricane Wilma, it had been put off, and now was a moot point. He had been looking for some Council discussion about back then, to have determined whether Town Council was going to have taken a position for or against it. He said because the Commissioners were going to vote on it the next day after this meeting, he didn't see the point, as he thought it was too late to make a resolution for or against it.

Mayor Van Duzer thought the increase would bring more dollars onto the Beach to cover rising maintenance costs and potential shortfalls in the Beach Renourishment funding, and to rebuild reserves for regular and hurricane funding. He said the heading for the power-point program – "The Investment for the Future" – prompted him to think that the Council might ask the TDC to put some of the funds toward solving some of the Beach's problems because it was a tourist destination. He had heard someone suggest that the Town should ask the TDC to use some of the additional money they would collect to go after SWF Water Management. He said if the TDC and the tourist industry didn't attend to those issues, all could be lost. He suggested that the Council should ask the County Commissioners to have a look at that type of item, and perhaps the Town could get some help from the TDC to fight some of the problems being forced on the Town from other areas of the state.

Ms. Segal-George pointed out to the Mayor that the TDC funds were what were paying for the County's fight with the SWF Water Management District at this point in time. She said the TDC funds had thus far paid for any consultants and experts that had been hired thus far with regard to that situation. She said she and Matt Feeney had made a presentation about the FEMA maps at the most recent TDC meeting, and that there had also been a significant amount of discussion about the water situation at that meeting. Mayor Van Duzer acknowledged that his idea to use TDC funds to deal with the water problem, but felt the issue should be pressed with them to continue to do so. Ms. Segal-George agreed, and said they could always spend more money on that fight. Mayor Van Duzer said Lee County was a prime tourist destination point, and that the area was getting slaughtered by the Lake Okeechobee discharges. He said it was not something the Town could fight alone, and that the Town needed help with that fight.

Councilman Reynolds, referring to the power-point presentation and the section that discussed the need for more funding, pointed out that the Town was on the low side. He said Sarasota got \$134 million, Dade got \$141 million, Bay got \$165 million and Lee County \$209 million. He then corrected himself and said the figures he had just read were advertising costs, not income, for the counties. He said advertising costs were constantly spiraling up, and that Lee County had to sustain its market share of tourism. He didn't know why this area would want to advertise more with all the problems with traffic. He felt that, at this time, an increase was not needed.

Mayor Van Duzer concluded this discussion, as no action was going to be taken by Council.

B. Introduction of Ordinance 05-26, Regarding “Tree City” Designation

Town Attorney Dalton read the caption of the ordinance, which basically introduced the establishment of a forestry department within the Department of Community Development. Ms. Dalton pointed out the cover memo attached to the ordinance, written by Jerry Murphy, the Director of Community Development, in which he laid out the intent of the ordinance was. Ms. Dalton asked if the Council wished to discuss the ordinance at this meeting, or preferred to move it forward to a hearing.

Mayor Van Duzer thought a public hearing should be set. Ms. Segal-George said the first public hearing would be November 21st at 6:30 PM.

Councilman Reynolds asked if there could be some discussion at this time, and Mayor Van Duzer said if it was needed, they could. Councilman Reynolds said he had some ideas about it. Mayor Van Duzer asked the Town Attorney if the Council could discuss it. Ms. Dalton said it could be done, but the reason she had asked about moving it to a public hearing was that it had been characterized as a draft ordinance. She explained to Councilman Reynolds that the structure of it would be to have a work plan put together, and that plan would go forward through the LPA under normal procedure, because the bulk of the ordinance would be related to the LDC.

Councilman Reynolds felt if they were going to consider creating a new department that the Council ought to discuss that before getting to a final draft. He said that was his reason for wanting discussion, although he didn't think he needed a reason. He asked if he was out of order, and Mayor Van Duzer said he had no problem with that.

Councilman Reynolds did not think it was advisable to establish a new department called the Board of Forestry Department. He said it would lead to more unnecessary regulations for the residents to follow. He reminded his colleagues on the Council that the Town was a small community on a small island, and adopting such a department would be going overboard, in his opinion. He felt they should keep Town programs in perspective, and felt a small chapter in the Comp Land Use Plan should be sufficient to deal with this program. He asked the Town Staff not to make community operations and maintenance more than what it really was. He thought the garden club in Town would want to be involved in the program, and thought perhaps a single Town ordinance was all that would be needed to back the program. He asked more time to consider whether Council really wanted the stringent regulations put on the residents that the proposed program would impose. He felt development of the program under the Director of Community Development should be enough. He said he would not like to see the proposed ordinance go forward – “stop it right here”, and added that he had many suggestions which he would give to Mr. Murphy for consideration, but also wanted the other Councilmen to see it.

Attorney Dalton said that Staff had been directed to pursue a designation as a Tree City under the Tree City, USA program. She said one of the four requirements of the program was the creation of a tree board. She said it was up to the Council if they didn't want to move forward with it.

John Gucciardo added that what had been envisioned was a fairly simple volunteer group, not additional Town Staff. He said the volunteer group would be similar to the volunteer groups that make recommendations with regard to the Mound House or the Newton property. He said it had been done and brought forward in conjunction with, and at the request of, the garden club. He said the garden club had brought it to the Town as a positive thing, and Staff had envisioned that it could enhance the quality of life for the Island's residents by making available to the Town more grant funding and more benefits once the Town got the Tree City, USA designation. He said that, from the Town Staff's perspective, there was no attempt being made to add another layer of bureaucracy or make it complicated. He said they were just attempting to meet the requirements of the program, and also meld it into a benefit for the residents.

Councilman Reynolds said Mr. Gucciardo had given a good explanation, but asked why that information had not been included. He said the information the Council had been given made it sound as if it was just going to be another department under Jerry Murphy. Mr. Gucciardo said he understood, and thought the reason that information had not been included was because the item was simply being introduced and that it would have to go through the LPA long before the Council would have it before them for consideration, at which time a lot of what might appear to be blank areas would be fleshed out. Councilman Reynolds acknowledged Mr. Gucciardo's remarks, and said he had just wanted to have his say before it got too involved.

Mayor Van Duzer said the garden club had come to Council and had asked the Town to become involved in the Tree City, USA program because the Town would then qualify for grants for trees and shrubs. Mayor Van Duzer explained that that was why the Council had gotten involved in the process. He said he had attended one meeting of the garden club, at which someone from the forestry board had spoken, and all the paperwork had been completed. He said one of the requirements was to create an ordinance to comply with their requirements. He believed it would basically be a no-cost situation for the Town, and was being pursued at the request of the garden club.

Councilman Reynolds said he didn't like to go by hearsay, and he hadn't heard all the information that had just been imparted by Mr. Gucciardo and the Mayor, but had simply formed his opinion based on the information that had been given to the Council, which was before them at this meeting, and was what he had based his questions on. Mayor Van Duzer felt it was fine to have had the discussion they were having about it at this meeting. He suggested letting it move forward, to which Councilman Reynolds responded, "Sure." Mayor Van Duzer said all the questions Councilman Reynolds had asked could be pulled into their discussion when it came before the Council for approval, after it had been through the LPA. Mayor Van Duzer asked Councilman Reynolds if that would be satisfactory to him. Councilman

Reynolds said the thing that had thrown him appeared on Page 2, where dues and responsibilities to the Forestry Department were discussed. He felt every time the Forestry Department was mentioned in the document, which he said happened throughout, it should reference the Director, as that should be the person in control of it because it would be under his department. He reiterated his opinion that people on the Island didn't want any more regulations in terms of where they might set a tree on their own properties. He said there were a lot of requirements that people would have to fulfill, and that would have to be put through Town Hall.

Jerry Murphy, the Community Development Director, said he would be happy to meet with Councilman Reynolds to discuss his concerns, which he said sounded as though they were basically drafting issues. He thought the ordinance was a little more about form over substance in the fact that the Tree City, USA program required there to be a responsible department, which they referred to as the Forestry Department. He said they had put it under Community Development because it seemed to make the most sense, and he didn't think there had been any attempt at all to grow government through the ordinance. Councilman Reynolds said he would like Mr. Murphy to discuss it before Council, not just with him alone, as he felt they all needed guidance on it. He did, however, say he would like to meet with him about it. He said he was for the Tree City concept, but just didn't want it to "explode into all these other things".

Mayor Van Duzer said Councilman Reynolds had asked good questions, and that the issue would come back to Council on November 21st.

Councilman Massucco asked Mr. Murphy to briefly review what some of the "numerous benefits" – mentioned in his memo to Council – would be. Mr. Murphy said the designation as a Tree City was one that not many cities in SW Florida had. He said Gainesville did have that designation, and believed Cape Coral had it as well. He said the designation would also make the Town eligible for grants through the National Arbor Day Foundation. When Councilman Massucco asked if that was it, Mr. Murphy was sure the Arbor Day Foundation probably could list a few more benefits. He added he would research that further if Councilman Massucco wished, and Councilman Massucco said he wanted to know what the benefits would be, as he agreed with Councilman Reynolds' assessment that it was an involved program. He said he would be in favor of the program, but just wanted more details about the benefits. Mr. Murphy said most of the draft ordinance provided to the Town by Forestry Department, which Town Staff had modified to exclude the things that had given them "heartburn as well", basically came from the Town's LDC. He said it would take time to develop the work plan discussed in the program to see if any changes would need to be made to the Town's regulations. He added that any and all changes would have to go through the LPA and then Town Council, if changes were needed at all.

Mayor Van Duzer stated the ordinance hearing was set for November 21st at which time he was sure a presentation would be made.

C. Update on Location of Signs for off-Boulevard Businesses

Mr. Murphy handed materials to the Council before making his statements. He said that at the Council's direction, he had met with owners of businesses located off Estero Boulevard regarding the concerns that had been raised when the prohibition of the A-frame signs had gone into effect. He said they had started with a palm tree design, and through discussion, had formulated the idea of using the Town's lighting standards that had been established along Estero Boulevard, and putting signs on those. He said they were still in discussion as to how the program would work, but basically businesses would get together and, through either a multiple year program or initially, they would pay for the actual light post and their signs, and install their signs on the light posts. He said it would depend on costs, which had not been researched as yet because he had not been given direction from Council to do that. He said in this way, the Town would get a light post out of it to further the StreetScape Program, and the businesses would get advertising that identified their locations in relation to Estero Boulevard. He said if the Council felt it was moving in a positive direction, he would continue to work with the business owners and develop some costs and standards for the program. He said his approach had been that whatever program was implemented, that the Town should incur no costs at all, or, any Town funds expended would be recouped out of fees paid by the merchants. He said thus far the merchants seemed to be amenable to that, but it would depend on the costs and how many years it might take to recoup those costs.

Councilman Massucco asked if this idea had been presented to the business owners as yet, and Mr. Murphy said he had just put it together that day. He said they did, however, understand the concept, and everything he had presented to Council had been discussed among them up to this point in time. Councilman Massucco commented that this was exactly what he had had in mind – not the particular design, but the concept – when he had voted against the extension of the use of A-frame signs. He said whatever was done, it had to be amendable to both sides. Mr. Murphy said he had managed to get the specs of the current light poles, or ones very similar to them, so that the Council could have a visual to look at while he made the presentation at this meeting. He said his concept as presented was based exactly on the discussions he had had with the business owners thus far. Councilman Massucco encouraged Mr. Murphy to move forward with the concept.

Councilman Reynolds asked if the poles to be used would be like street lights, and Mr. Murphy said they would be. He said he had a concern about increasing the number of signs on the Island, and he wondered how many would be acceptable or desirable for the community at large. Councilman Reynolds asked how large the signs would be, and Mr. Murphy said approximately 6" x 30". Councilman Reynolds remarked that that would be a "pretty big sign". He asked if the sign would contain only the name of the business, and Mr. Murphy said the sign would contain the name or logo, but would be up to the individual merchants what they wanted to put on their particular signs. Councilman Reynolds said if every business on the Island could have a sign, there would be a lot of signs. Mr. Murphy said it would be every

business that was not directly on the Boulevard, and listed out the businesses that would be affected, which he said were mainly owned by the people who had felt the most negatively impacted by the ban on A-frame signage. Councilman Reynolds asked if any businesses in Santini had expressed interest in the signage, as their businesses were pretty far off the Boulevard. Mr. Murphy said they had not been approached, and had not been involved in any of the discussions he had had with merchants. He thought the Santini complex itself was readily identifiable, and that people understood that it was a shopping plaza. Councilman Reynolds said he didn't know that they wanted the new signs, but wondered if they had approached Mr. Murphy about it, although he thought they would possibly qualify, and could help further the redevelopment of the Boulevard in that area. Councilman Reynolds asked if the business owners liked the design as it was presented at this meeting, and Mr. Murphy said it was the design they had brought forward. Councilman Reynolds didn't think anyone would go against something that didn't look really bad, especially with regard to small businesses. He thought it was moving in a good direction.

Mayor Van Duzer said the storms had slowed down forward progress on developing a signage program for the off-Estero Boulevard businesses, which he felt was a shame. He believed they should move forward with what Mr. Murphy was doing with the merchants' ideas, and was concerned about the time element, in terms of pricing everything, getting the poles set into the ground, etc. He felt it probably couldn't get done in time for the '05 – '06 tourist season. Mr. Murphy said it was their goal, and in response, Mayor Van Duzer said it would then need to be moved forward as rapidly as possible. Mr. Murphy said he would get together with the merchants, develop some costs, develop a draft program, and try to bring it all back to Council.

Councilman Katcko asked Mr. Murphy if he knew of any other municipalities that had the type of lamppost signage proposed by the merchants, so that the Council could possibly to see what it would look like other than just with drawings. Mr. Murphy said he had not located one as yet, but offered to do further research to see if there were a prototype already in existence. He said the concept was created through discussion with the merchants, but said he would not be surprised if it had already been created somewhere else.

D. Traffic Mitigation Recommendations Regarding the Trolleys

MOTION: Councilman Massucco made a motion to postpone any discussion on Item D until the Council is seated after the elections. Councilman Katcko seconded the motion.

Councilman Reynolds expressed his agreement with the motion. He said it had become a critical issue, and he thought it should wait for the next Council, no matter who it was.

Mayor Van Duzer said he could see what the vote would be, and asked why he should "stick his neck in the noose".

VOTE: The motion carried unanimously.

E. Discussion of Early Lifting of Automatic Building Moratorium Resulting from Hurricane Wilma

Attorney Dalton said she had asked to bring this item forward, and characterized it as a “housekeeping” matter. She said at the time Council had adopted Emergency Resolution 05-35, various moratoria had been put into effect. She said Resolution 05-39, before Council at this meeting, addressed lifting of those moratoria.

Jerry Murphy said a detailed damage assessment had been completed, and felt prepared as a department to go forward with the issuance of permits, that had been included in the moratoria, as it was not felt necessary to continue the prohibition of permit issuance.

Mayor Van Duzer opened a Public Hearing on Resolution 05-39 to repeal all remaining emergency building moratoria regarding Hurricane Wilma.

No one expressed a desire or intention to testify at the Public Hearing; Mayor Van Duzer closed the Public Hearing, and brought the issue to Council.

MOTION: Councilman Massucco made a motion for Council to accept Resolution 05-39. Councilman Reynolds seconded the motion.

VOTE: The motion carried unanimously.

F. Administrative Appeal for Neptune Inn

Mayor Van Duzer instructed all those who were going to offer testimony in this hearing to stand and be sworn in by the Town Attorney, which they did.

The applicant, Craig Stark, came forward. Mr. Stark introduced two of his partners - Adam Morris and Henry Floriani.

Mayor Van Duzer interrupted Mr. Stark’s testimony to ask the Council members to report any ex parte communications on the issue.

Councilman Massucco – visited the property but had no communication with anyone.
Councilman Reynolds – had breakfast with two of the men about three or four weeks prior to this meeting, and noted that he had paid his own bill.

Councilman Katcko – spoke with Mr. Morris and Mr. Floriani at Town Hall after a Council meeting a few weeks prior to this meeting.

Mayor Van Duzer – met with Mr. Morris and Mr. Floriani at Town Hall.

Mr. Stark continued his presentation, and talked about his personal history as a visitor to, and as of a month ago, a resident of Ft. Myers Beach. He said he had been in the hotel/resort business since 1973. He said his company – The Great Lakes Company

of Madison, Wisconsin – had managed 20 resorts and hotels in 8 states. He said he was co-founder of Great Wolf Lodge Family Indoor Waterpark Resorts and had over 3,000 employees. He left that company in March 2005 to spend more time with his family in Florida. He said they had recently opened a new company that owned or managed eight hotels and resorts, and in July 2005 had purchased the Neptune Inn. He said it was an extremely clean, well-maintained and well-managed hotel. He said the first wing had been built in the early 1960's, and the hotel needed to be renovated for the future. He said his company viewed the Neptune Inn as an Island icon, and needed to stay a resort with nightly lodging available. He said they needed the Town's help in bringing the facility up to world-class accommodations. He promised they would deliver clean, well-maintained rooms at an affordable price for a vacationing family.

Henry Floriani came forward to give background on the acquisition of the property in July of this year. He said the zoning was in place for their company to do many things with the property, such as residential condos and other options. He said they had found a wonderful staff at the Inn, and found it was an icon on the Island, and so decided to keep the property as a hotel. He said that fiscally, the way it could be kept as such was to parcelize the ownership of it, which would bring in the necessary capital that would allow them to keep it as a hotel, and possibly grow the number of jobs. He said their improvement ideas would improve the streetscape of Estero Boulevard as well, and then pointed out the rendering they had brought to show the Council, which he said graphically depicted their plans. These plans included: renovating the existing structure according to both existing building guidelines and the FEMA guidelines; improving the look of the property in terms of how it looked from the Boulevard; re-landscaping the entire site; and, redoing all the rooms to bring them up to world-class standards. He said it would still operate as a hotel offering nightly stays. He said they had come to this meeting to ask the Council that the ownership structure allowed on the property be changed, even though the use would remain the same.

Adam Morris came forward. He said his family had been coming to the Beach since before he was born, and had grown up on the Beach. He said he had watched the Town transition over the years, and enjoyed being a part of it, although he said he resided in Bonita Springs. He said their agenda at this meeting was that they were asking for an appeal of the Staff decision, so as to allow the form of ownership of the property to a fractional hotel/condo. He said it was a method to market the hotel to owners at an affordable price. He said the Council would hear the Staff position which he said would go into the legal details and the Town's legal interpretation of their application. He stressed that they simply wanted to save the hotel by changing the ownership structure for the property. He said they were going to invest a significant amount of capital into the renovation of the property, which would save it. He then introduced Bob Mulhare of RWA, whom he said would do a powerpoint presentation of their position.

Bob Mulhare came forward. He said the bottom line was that the attempt on the applicants' part was to find a way to keep the hotel operating as it existed currently. He said his clients were businessmen and wanted a return on their investment. He said in order to continue operations as a hotel, they needed to create a situation that would provide enhanced economic gain. Mr. Mulhare said the discussion was simply about the difference between the form of ownership and the use. He said use was regulated by zoning, and in the CR District in which the hotel was located, hotel/motel was a permitted use, as was time share. He said Mr. Murphy's detailed response to the applicants' request for interpretation that they were appealing at this hearing. He felt the Staff's interpretation was more complicated than they felt it should be.

Taking up the first issue he wished to address, Mr. Mulhare quoted from the Staff Report: "The LDC directly addresses the conversion of hotel/motel buildings to time share development in Section 34-1807, providing that any hotel or motel proposing to convert to time share will be required to comply with the density limitations of the Ft. Myers Beach Comprehensive Plan, parking, and all other regulations of the code. If the existing hotel/motel building being converted exceeds the density or intensity limitations of the Comprehensive Plan or this code, the conversion must use the pre-disaster buildback regulations, or the post-disaster buildback regulations, in order to rebuild at up to the existing density or intensity." Mr. Mulhare said they were not talking about rebuilding, but were discussing an existing structure that would operate exactly as it was currently, after the form of ownership was changed, which would provide the necessary influx of money necessary to improve the hotel, to keep it competitive in the marketplace.

The second issue Mr. Mulhare took up in Mr. Murphy's Staff Report had to do with the non-conforming status of the property. He said the number of rooms currently in the hotel exceeded the density that would otherwise be allowed. He said the structure was below the floodplain elevation requirements as well. He said there were probably hundreds of buildings on the Island that did not meet those standards. He opined that there were probably a number of uses that exceeded the density/intensity requirement as well. He said they were not talking about tearing down the Inn, but making some substantial improvements, although none would contravene the existing codes related to making improvements to buildings that don't meet the floodplain regulations which are spelled out – one cannot exceed a certain amount of value based on the market value of a structure over a five-year period. Mr. Mulhare said that, while they had not had a professional appraisal of the market value done on the structure, but had had an appraisal of the property done, and had subtracted what they believed to be the land value from it, which he said left an approximate value of \$6,400,000 for the structures. He said the FEMA guidelines were very detailed as to what could or could not be included in the cost of improvements made to the property over a five-year period so as not to exceed 50% of the structure's value. He said they had estimated that they would be able to spend maximally \$3,200,000 on FEMA-related improvements. He said their proposal was to make FEMA-related improvements that would total approximately \$800,000 and noted that landscaping

and other site improvements would not go toward the FEMA costs. He said they had already spent approximately \$60,000 in FEMA repairs that would be applied to that total. He said there would remain approximately \$1,800,000 remaining in the FEMA cap over the next five years.

Mr. Mulhare said changing the ownership was not regulated by zoning and was simply a business decision. He said there had been a concern expressed in the Staff Report that if Staff agreed with that, that some unintended consequences would then be created. He said that, in their view, there should be no reason why his clients shouldn't be able to continue to operate the hotel with a changed form of ownership that would do exactly what everyone appeared to want – which was to keep the hotel functioning and operating on the Island. This concluded Mr. Mulhare's remarks.

Mr. Stark returned to make further statements. He said if the Town agreed with his company, there would be no change in use, and that they were on record as saying they would continue to operate the property as a hotel/motel, a transient lodging facility. He said it would save at least 21 jobs, and would potentially create a few more jobs. The hotel would be renovated and the streetscape improved, which he said would benefit everybody. He said there would be an enhanced economic benefit to the community if the hotel could be economically feasible and compete in today's marketplace. He said merchants and restaurants would benefit from the visitors that would stay at the facility. He said he and his partners were committed to a reduced impact by reducing the current number of hotel rooms from 70 to 68, and would use the extra space for amenities.

Adam Morris came back up to summarize their appeal. He indicated the bullet point summary in the Councilmen's packets which Mr. Mulhare had reviewed in his remarks. He said on the top of Page 2, there appeared the motion that he and his partners hoped the Council would put forward and pass: "The conversion of the Neptune Inn from a corporate form of ownership to a time interval, fractional hotel/condominium form of ownership, is consistent with the Town's GMP Master Plan and LDC – Land Development Code, provided the use of the property continues in a manner consistent with the current operation and the Town's definition of hotel/motel; and moreover, that any improvements are consistent with applicable FEMA and Town building codes, and applicable ordinances." He mentioned the budget summary, and expressed his and his partners' belief that the property will be appraised at a higher value than the figure they had used. He then recapped the benefits to the community if they were granted the appeal, which Mr. Stark had listed in his remarks.

Mr. Morris then recognized that there were people in the audience who wished to speak in support of the appeal.

Mayor Van Duzer said they would have to be sworn in, but would be asked to speak after the Staff had made their presentation.

Mr. Morris concluded his presentation. Mayor Van Duzer asked if anyone on the Council had questions of the applicants before Staff made its presentation. They all agreed to reserve the right to ask questions later, but had none at this time.

Jerry Murphy, Director of Community Development, made his presentation. He hoped that everyone had had the opportunity to review his recommendations, as his report was lengthy. He said his report walked through the provisions of the code which he felt had been drafted to prevent something like what was being proposed in absence of a policy that would address some of the issues that he felt would arise from it. He said the conversion of a hotel to a time share required a CPD zoning. He said he and the applicants had discussed the project for several months, with the idea of operating the business as a condo/hotel. Now, he felt they wanted to have an interval ownership arrangement. He said the code had provisions that addressed that, as well as the further parcelization of property that is over-density, below flood, or otherwise nonconforming. He said there had recently been a project on Mango Street (Sea Breeze) which had been a multi-family residence, and had come forward while the Town had been in the process of drafting code requirements that would regulate a situation like that one, so that there were clear guidelines. He said the code now existed for the duplexes and the multi-families, but not for the hotels, and the LPA was currently addressing that through the EAR process to develop some policies for hotel conversions, condominiumization of hotels, and for everything that could be foreseen. He felt the applicant was a bit ahead of what the Town could agree to in terms of regulations. He summed up by saying the code did not currently allow what the applicant wanted to do, and that was Staff's interpretation and was contained in an outline he had provided to Council. He said it didn't mean that what the applicant wanted to do was a bad thing, but that Staff had some concerns, the biggest being the below-floodplain aspect. He said he had included in his memo to Council that there had been a significant amount of damage after Charley, and had all been removed below flood, and came out to the street and the Town had paid to have it carried away. He said the Town had been fortunate to get a 90% FEMA reimbursement from that particular storm, which he felt had been because the Town had responded very well in the bookkeeping. He didn't believe the Town was going to get 90% reimbursement for Hurricane Wilma clean-up, however, but more like 75% reimbursement. He said, because it seemed as if a cycle of increased storm activity was a reality for years to come, the Staff's concern was that if the property were to be subdivided into multiple ownerships – where each unit has multiple owners – a lot of people would have to have the potential of suffering a loss from a flood. He said the Town didn't know how to address that situation in terms of a large building such as the Neptune Inn, and there was no policy for it. He said they didn't know who would suffer the cost of elevating the property if it needed to be, although it was a property that the Town should develop if it wanted to preserve the old hotels. He said he was not authorized by the code to figure out administratively how long the units could exist before needing to be redeveloped. He said he needed policy direction from Council, but that there had not been time to get a position from the applicant as to what they might do in those instances where elevation of the building would be necessary. He said if Council felt this was the type of project they would like to see

done on the Beach, given more time working with the applicant, Staff could probably come back with solutions to those problems – how to address the issues of density, being below floodplain and subsequent damages - if Council gave that direction. He said he could not possibly come up with those possible solutions before the end of January, 2006. He noted that that was a very generous nod to the applicant in terms of the amount of time he was offering in which to do it. He said, from a planning perspective, with the traffic issues and the preservation of motels on the Beach, the loss of hotels on the Beach would mean more cars would come to the Beach to get to the Island from the numerous off-Island hotels that were being proposed and/or built. He said people staying in hotels on the Beach had a better chance of walking the Beach to get to restaurants and other businesses. For these reasons, Mr. Murphy could see the importance of keeping hotels, like the Neptune Inn, in operation. However, from the larger perspective of looking out for the subsequent purchasers of the Neptune Inn property, he said they had to address how the floodplain issues were going to be handled.

Mayor Van Duzer asked the Council if they had any questions for Staff at this time.

Councilman Massucco asked Mr. Murphy if there was a significant difference between the two statutes regulating condos and time shares. Mr. Murphy did not think there was, and believed their intent was basically the same.

Councilman Reynolds said there were properties near where he lived on the Island that were converted into condos, which he said had been really small hotel rooms before. He said he had heard complaints from people in those areas because they were not year-round units. He expressed concern about the Town's involvement with the project in the future if it allowed the units to be converted to time share. He said there were ways the investment group could handle what they had currently under the present deed and title as-is. He wondered why they needed to change the titles on all of it. He said it would create a weird situation for the owners of the units if they disagreed on things, and would create problems for the Town as well. He hoped the investors would keep the title clear as is, go behind the scenes in another document of special agreements for their investment purposes. He felt their asking the Town to get involved in it created a real problem for the Town as well as the owner.

Mr. Murphy felt, to some extent, that that was what he had said in his report.

Councilman Katcko applauded Mr. Murphy's comments that it would be preferable to keep the Neptune Inn operating as a hotel, and he applauded the applicants for trying to come up with a way to save the hotel. He said he was very concerned that all the hotels on the Beach would eventually be knocked down and converted to residential condos because of the property values on the Beach. He felt a better explanation as to what was involved in a time share purchase was needed. He understood it to mean one was buying time, and not a deed to a property.

Attorney Dalton said it was an ownership interest – a subdivision by time. She explained one would then have a fee ownership. She said when one owned a home, one owned the whole thing, whereas when one had interval ownership, one had ownership interest but only in terms of what time one bought. Councilman Katcko asked who would be responsible for damages within that form of ownership, if for instance, the Neptune Inn were damaged. Ms. Dalton said that generally, the interval owner would share responsibility, but it would depend on what the documents said. Councilman Katcko remarked that it would be up to the owners of the property to determine what went into those documents. Attorney Dalton said that, in the past, the Town had made certain requirements of condo documents or other type ownership documents, the language being reviewed and approved by Town Staff, and by Town Council, before they could go forward. Ms. Dalton thought the discussion of the issue at this meeting was leaning toward continuing the applicants' appeal for the purpose for having a discussion regarding what would be in those documents.

Councilman Katcko asked how it would be determined, with numerous individual owners, who would be responsible for what portion of damages should the hotel be damaged by a hurricane. Mr. Murphy said there was currently no policy in place to address that, adding that he had been working with FEMA since after Hurricane Charley, in terms of how one determined that with condos and hotels, and as yet had not gotten a definitive answer, or anything close to definitive, to his questions. He said FEMA was busy. He said that was one of the questions Staff wanted an answer to before bringing forward any type of recommended policy. Councilman Katcko pointed out the issue had not as yet come before the LPA.

Mayor Van Duzer thought the suggestion that the applicants explore some other legal way of resolving the issue was a good one. Mr. Murphy felt both he and Councilman Reynolds had alluded to that idea. He said it would be a matter of the Town Attorney and the applicants' attorney taking an opportunity to explore what effective provisions they could put into the documents that would provide the public with sufficient notification of the very questions that had been raised by Council in this discussion, such as who would pay for what when things turned bad.

Attorney Dalton reiterated that the Town had been involved in that level of condo documents in the past, where certain requirements were put on the owner to notify the public so that everyone was protected, and thus was not a new concept for the Town.

Councilman Massucco said that usually, if a condo building were damaged, the repairs would be done by assessing each owner. He said, using the 70-unit number, for 52 weeks, would amount to 3640 individual owners of the building. He said that would create all kinds of problems. He said the unique part of that situation was that if the people upstairs had no damage, they would not want to be assessed for damages that only affected the first floor units. He felt it would open up legal issues, and "everybody would be in court with everybody". He said he was not trying to discourage the applicant from going through with their plan, and agreed that their attempt to keep it as a hotel had merit as Councilman Katcko had said. He said he

knew a bit about time share ownership, and that there were different types of time share arrangements, and said it could be sold as flex time or whole ownership, which was entirely differently from interval ownership. He said interval ownership and time share were two different types of ownership, in that with interval ownership one had a deed with a specific week in a specific unit, whereas with time share, one did not have a deed, one simply had time and could be put in any available unit in the building during that time. He asked if the applicant specifically was seeking the okay for interval ownership or time share ownership.

Attorney Dalton asked if there were any other questions of Staff before the applicant came back to respond to the Staff Report. Mayor Van Duzer and Councilman Massucco said there were a lot of questions, but Mayor Van Duzer preferred that all presentations were done before asking them.

At this point, Bob Mulhare came forward to respond to the Staff Report. He said he would not talk about the operational questions raised by Councilman Massucco, as he said Adam Morris would address those. But with regard to questions raised about responsibility for damages assessed, Mr. Mulhare said an insurance policy would be carried on the property, and in the event of major destruction, they would cash in on that insurance policy. He said if there were deductibles and other things that were not covered by that policy, the owners would be assessed based on the value of ownership. He believed that was regulated by state statutes. He said if the structure were damaged by greater than 50% of its value at the time of destruction, the entire structure would have to be rebuilt anyway, and then everyone would be assessed based on their ownership value, and the non-conforming use issues would have to be dealt with, which would bring them back before Council. He felt that would be the appropriate time for the CPD process. He said they were not talking about rebuilding anything at this time. He said there were time share and interval ownership hotels in existence all over the country, and so there had to be a methodology established already for assessing the costs of maintenance and/or damage. Thus, he did not think they would be “reinventing the wheel”, and believed it could be worked out relatively quickly.

Adam Morris came forward to explain ‘fractional’ versus ‘time share’ ownership. He said their proposal was for a fractional hotel/condo, which was a business product being offered by Ritz-Carlton and Host Marriott extensively in the U.S. and internationally. He said it was different from time share in that one would buy a block of real estate. He said there could be anywhere from six to twelve owners of each hotel room, with one fraction of the room owned by the hotel owners. He said the other fractions would be owned by other investor/buyers. He said it had not as yet been determined if it would be six, eight or twelve owners per room. He said they had a biased perception as to where they believed that issue was headed. He said the investor/buyers would buy a fraction of the room, and would join the condo association, very much the same as any condo association on the Beach. As part of that mechanism of that association, one would have money in reserves for roof replacement, paving replacement, and various maintenance things such as paint and

so forth. He said those reserves were a function of the fractional hotel/condo association, and everyone would have voting rights in that association. They would review and approve the budget. There would be a property management team in place. He said the benefit to the arrangement was that the dues each member of the association would pay would be mitigated by the number of owners involved in the association. He said currently he and his partners were leaning toward a six-week/eight-owner program. He said they could use their time as they liked, and could lease their unused time through the hotel, it would offset their expenses. He said applicants were going to keep a fraction of every room to ensure there would be an inventory of nightly stays. He said they were structuring their program in such a way that existing clientele could afford to purchase and own a portion of the Neptune Inn. He said fractional ownership had been implemented in high-end markets, in much larger rooms typically, and that it was a new product for SW Florida. He said there were no comparable sales in the area to look at, but there were projects underway in Destin, Rosemary Beach, Orlando, Ft. Lauderdale, Miami, and the Keys. As he concluded his remarks, Mr. Morris added that in their project, they would be offering a deed ownership. He said the Florida state statutes regulated that process aggressively. He said they would prefer to use a commercial condominium process, but they could not. He said they had done a great deal of research, and had gone to a great deal of expense to invest in this alternate business plan, which they felt was in response to the demand that they felt they had "heard" from the Town, to keep the property functioning as a hotel. He said their attorneys had clearly advised them that because they would have eight owners to a room, they had to use the time share statutes, and could not use the commercial or residential condo statutes. He said it was more costly and put them under more regulations throughout the sales process and from A to Z by the state.

Councilman Massucco asked if the type of ownership Mr. Morris had described above was what Lovers Key had. Mr. Morris said Lovers Key Resort was a traditional hotel/condominium as far as he knew.

Councilman Reynolds said he understood what Mr. Morris had explained. For clarification, he believed the applicants could share 51 weeks on one room, and had to keep one week. He believed, per the state statute, that one week had to be available for repair work purposes. Mr. Morris said there was a repair requirement for the time share program. Councilman Reynolds thought if there were six investors who divided up ownership of the rooms, each owner would own approximately twelve or eleven rooms each. Mr. Morris said there would be six owners per room, and would own a block of time up to eight weeks in that unit. He said in the case of six owners, they would each own two months in that room, and the remaining four weeks would be owned by the hotel itself. Councilman Reynolds said he had trouble understanding the arrangement. Mr. Morris explained that there would be a deed issued for every fractional share bought. Councilman Reynolds was still unclear as to how the hotel would then retain ownership, giving as an example an owner being able to purchase eleven rooms, with six being the total number of investor/owners. Mr. Morris explained that a fractional share would be, under the program of six owners for each

unit, there would be six fractional shares of the room, eight weeks per fractional share. Councilman Reynolds said he was concerned about problems down the road the Town would inherit if so many blocks of individuals with individual deeds. He asked if it could be done “behind the scenes” as he had suggested earlier. Mr. Morris said state law required that they utilized the time share format of ownership because there would be more than one owner in each room. He went on to explain that there was no Florida statute on the books with regard to fractional condos, but only the time share statutes which allowed for one hotel condo to be broken up and owned by multiple owners. He said what concern was being discussed with the Town currently was what liability the Town would have in the future, and he said it would be absolutely no different than the liability the Town would have with a condominium. He said there was insurance in place, and their condo documents were much more stringent and restrictive and subject to state regulation than a regular condo. He said they were very confident what their budgets, with regard to the FEMA guidelines, would entail. He said if a disaster occurred, the applicants felt they would have more than enough money to come back over the next four years to take care of any major damages. From a budgetary standpoint, the owners would have reserves and insurance, and an ongoing association that would drive revenues for the property. He said the hotel would generate revenue in addition to all the association dues that everyone would be paying for the long-term benefit of the property. He felt the discussion about liability for the Town was becoming a gray area that really should be viewed as such.

Mayor Van Duzer asked that those people wishing to speak on the applicants’ behalf to come forward at this time. Mr. Floriani asked those people present who were there in support of their plan and the Council’s approval to stand up to be seen by Council. When they stood, Mayor Van Duzer said it explained to him why some of the people present had come to the meeting. None of the people actually wanted to speak, but simply wanted to show their support. Councilman Massucco asked if they were employees of the Neptune. Mr. Floriani said some were, and some were other residents who simply wanted to preserve the Neptune Inn’s operation as a hotel as they viewed it as an icon.

Jerry Murphy made two points. One, he felt Mr. Mulhare had misspoken in his discussion of the post-disaster situation, which he explained was generally handled administratively through the development order process unless the applicant desired to build back something more than what they had had. Secondly, regarding the representation of 70 or 68 units – Mr. Murphy said Staff had not confirmed that, and the only information available to Staff was that the Comp Plan indicated that there were 65 units in the Neptune Inn when Mr. Spikowski had done his background work on the proposal. Mr. Murphy said he had done a door count, and had counted somewhere between 68 and 70. He said he just wanted it on record that the Comp Plan recognized 65 units.

Mayor Van Duzer asked Mr. Murphy if the Council had the availability and the right as Council to approve the appeal request during their meeting without violation of the

LDC. Mr. Murphy said the ultimate interpretation of the LDC and the Comp Plan fell to Town Council, so they did have the power to do whatever they wanted to do. Mr. Murphy felt there was an issue that had not been addressed. He said he had a concern with the density issue, but was even more concerned about the floodplain issue. He felt it was possible that the applicant might be prepared to address it in a manner that would be satisfactory to Staff so that they could acknowledge that it had been addressed, and the Staff could recommend to Council that, if they wanted to interpret the policy to allow it through a development order process, then it could be done. He reiterated that, at this point, those questions had not been specifically answered.

Mayor Van Duzer said he had looked at the project, and not wanting to appear that he was in the pocket of some developer, he felt there was an opportunity to obtain one of the existing motel structures on the Island, which is what Council had seemed to be saying as what they wanted, although there was a little glitch in the ordinance that was difficult for Council to overcome. He felt, based on Staff's remarks at this meeting, that if the applicants and Staff worked together, they could overcome the problems in a month or two, rather than being caught up in an eighteen-month to two-year process. Mr. Murphy said in response: "For this particular project, and if that's your direction."

Mayor Van Duzer felt it was a simple matter, because the applicants were not asking for any increase in density, intensity, more units, or more square footage, and thought the applicants were planning to reduce it a bit. He felt it would be incumbent upon the Council to move the issue forward in a cooperative effort between Town Staff and the applicants, so that things could be resolved in a rapid manner. In the meantime, he felt the Town should continue to work toward a process in the LDC that would answer the problems, raised with this project, in the future. He reiterated that he didn't want the Council to do something that would give everybody the right to do the same thing before something was in the LDC to address it. He said it had to be handled legally, but he was not familiar with how that would be done.

Mayor Van Duzer felt the Council should put it back in the hands of the Staff and the applicants, for a 60- to 90-day period to come up with a way to handle the situation. He said if some conclusion could not be found, then it should be brought back to Council.

MOTION: Mayor Van Duzer made a motion to continue the appeal for 90 days, wherein Town Staff and the applicants would try to come up with a solution to the situation regarding the Neptune Inn, with the issue to be brought back to Council if no resolution can be found. Councilman Katcko seconded the motion.

Mr. Murphy asked if it was to be a priority, and asked if it could be resolved before 90 days if it could be scheduled at the next available Council meeting. Mayor Van Duzer asked if that meant it could get done in the next week, and Mr. Murphy said it did not mean that. This sparked some chuckles all around. Mayor Van Duzer felt it

should be handled as rapidly as possible, and felt it was a situation the Town would be faced with in the future.

Councilman Massucco asked how one would circumvent the LDC. He said it was very clear that the building was non-conforming. He felt continuation of the negotiations meant they were looking for a way to circumvent the LDC. He was not in favor of it.

Mayor Van Duzer didn't believe it would circumvent the LDC, because the Council had the right and the ability to take a look at each proposal, and that a precedent would not be set by doing so. He said if the Council felt a proposed project was in the best interests of the Town and its citizens, then they had the ability to find a way to make it okay to do.

Councilman Reynolds asked if Councilman Massucco was finished with his remarks. He said he wanted to hear what Attorney Dalton had to say.

Ms. Dalton said it was not a question of circumventing the LDC, but rather that the LDC was "silent" on this technical point. She believed the motion created an avenue to determine if there was way, together, to address that ambiguity in the LDC that would comply with it while, at the same time, would advance the applicants' interests. She said the process of amendment to the LDC, while moving forward, had not yet reached its logical conclusion.

Councilman Massucco said there were two very distinct issues – the structure was non-conforming in density and floodplain regulations – which he said were very heavy things to overcome. He felt to negotiate those things seemed to be an attempt to circumvent the LDC.

Ms. Dalton restated Mr. Murphy's observation that the ultimate decision-maker in terms of interpretation of the LDC was the Town Council. She said if Councilman Massucco felt the LDC already addressed the issue, that it was a completely legitimate position.

Councilman Reynolds felt very strongly that preservation of motels on the Island was important, and felt there was a dire need for those rooms. He hoped the applicants would continue to pursue that. He said he had problems and confusion about the different ownerships of the property being proposed. He repeated that he hoped the motel rooms could be preserved because the businesses on the Island needed them, and that motel room preservation was preferable to having everything converted to condos. He observed that if one wanted to "make a quick buck and leave", then that would be the best way to do it. He then read a prepared statement which included some thoughts he wanted Mr. Murphy to keep in mind as they worked on the issue. This statement appeared in its entirety in the Council's packs, the gist of which was the concern about density increases being allowed in new projects. Councilman Reynolds' statement also said the Neptune Inn, while it may not increase in density,

would create problems for the Town, and that it was not in the best interests of the Town because it would create zoning and enforcement problems far into the future. He suggested that, if the applicants wished to divide ownership in the fashion as they had presented to Council, they should consider keeping the ownership title intact, and could bring about their desired ends by drawing up special agreements amongst themselves, behind the scenes, so that serious problems would not be created for themselves or the Town in the future. He encouraged the Council to reject the proposal as it stood as it may promote future legal entanglements. He further stated that he thought the motion on the table was a good idea, and he had no problem going along with it as he felt more study needed to be done on the issue.

Councilman Katcko agreed that the motion on the table was the right way to go, and hoped something could be worked out so that the property could remain the Neptune Inn, and that he had no problem with the type of ownership proposed. He said, as the Staff Report had pointed out, “absent and established policy favoring and providing for the ultimate floodplain compliance”, the project was not in compliance with the LDC and not in the best interests of the Town. He said it was an issue that had not as yet been addressed by the LPA or Staff, and felt they should work forward to finding a solution that would comply with both the Comp Plan and the LDC. He said he was in favor of the motion.

Councilman Massucco said he couldn’t see how doing anything less than raising the building would bring the project into compliance with the floodplain regulation.

Mayor Van Duzer said that, in layman’s terms, the building was below floodplain elevation, and therefore did not comply. He said it was more density than would be allowed if the structure were razed and a new building was erected in its place. He said it did comply, however, because it was an existing non-conforming structure, and the owner was allowed to do pre-disaster development work on that structure. He said it would only become non-complying if it got to the point where it had sustained more than 50% damage. He said the problem was the change in the type of ownership the applicants wanted to make, which he said changed it from the existing hotel property to something owned in a different manner.

Councilman Massucco quoted from the Staff Report: “The point being that the multiple subdivision of the non-conforming property is what disallowed” not the type of ownership.

Mr. Murphy said it was not the ownership itself, but was getting from a single-owner parcel to multiple parcels that could then be owned by one or more individuals. He said the parcelization of the property was what the code did not allow because the existing property was over density and below floodplain. He said if the applicants could address the biggest concern about the floodplain issue – what would happen if the property was damaged beyond 50% of its value, or what would happen after a period of ten years or whatever period of time named – then a plan could be presented that showed how the building would be brought into floodplain compliance, and that

could be put into their condo documents. He said at that point, the owners would then be more tenable with the Town's non-conforming use and building provisions than they would be in absence of any plan whatsoever. He said the plan could be put in a notice on the front page of the condo documents, so that people understood what their obligation would be in the event that there was substantial damage sustained. He said the Town didn't have a policy to address it, and was trying to develop one. He said if the applicants could work with the Town during the continuance of the appeal, it could be very informative to the entire EAR process in how it would be addressed for other buildings on the Island in similar situations. He said in effect he would let the applicants help the Town help them.

Councilman Massucco remarked that Mr. Murphy was "quite a salesman". This evoked some laughter. Mr. Murphy said he wasn't trying to sell it, which caused a few more people to laugh.

Councilman Reynolds said Mr. Murphy's explanation of the situation was why he was going to go along with the motion. Mr. Murphy said if the applicants did not come up with a proposal that satisfied Staff, it would be brought back to Council but they would not support it. He said if it was satisfactory, Staff would communicate that to Council. He said ultimately the decision was in the Council's hands.

Councilman Massucco asked if, when the Town did this sort of thing, it would affect the FEMA flood insurance program. Mr. Murphy said FEMA would be involved in the process, and that he would have a letter in his file that said they were okay with it before he brought it forward to Council.

VOTE: The motion carried 3 – 1, with Councilman Massucco dissenting.

G. Update of Recovery Efforts from Hurricane Wilma (Verbal Presentation)

Mr. Gucciardo presented his report in two sections. First he recapped what had occurred during Hurricane Wilma, and then discussed any ongoing efforts taking place at this time.

He said the Town's experiences with its partners in the Sheriff's Department, the Fire Department, Beach Water, and Lee County utilities had been very good, and things had worked very well. He said there had been a bit of disparity in terms of what Lee County utilities had said they would deliver in terms of generators for the lift stations and what had actually occurred. But, he said after the hurricane, the Town had been in a much better position to supplement what Lee County had not been able to supply, so that the lift stations did have power in a relatively short period of time.

Mr. Gucciardo said the Town's experience with its subcontractors had also been very good. He said Ed Lawlor had been the point person on that, and had done an incredible job. He said the off-site location had been set up and operational for one day prior to the storm, but had not found it necessary to continue operations there after the storm. He said Rachel Lambert had been the point person on that, and

considered it a dress rehearsal for what might have to be done in the future. He said the website and hotline had worked very well, except when the server had lost power. He said once Ms. Paulauskas, the point person on that, had been able to clear that up downtown, she had been able to keep information free-flowing before, during and after the storm.

He said the incorporation of the use of the volunteers through the Public Safety Task Force had gone very well. He said they had assisted with things like phones and with ice distribution. He named various other staff personnel who had helped with various tasks.

He said the biggest negative experience after the storm had been that a large portion of the Island had been without power for a long period time. He said FPL had been faced with a vast amount of wind damage throughout the entire region, which had affected their power source. Also, he said FPL did not have as much manpower as had been available to them last year after Hurricane Charley, because there was so much reconstruction work ongoing in other states and around Florida, and those personnel could not be pulled into this area. He said that, apart from isolated homes with particular problems, the entire Island was back on line by the Thursday after the storm. He said Ms. Segal-George had been the one dealing with FPL.

With regard to ongoing efforts, FEMA had approved, for public assistance, Categories A & B – ‘A’ being emergency work that had been done during and after the storm; ‘B’ being preparatory work that had been done before the storm. He said they had gotten approval for 100% reimbursement for the first 72 hours, and 75% reimbursement for any time after that, and added that the remaining 25% would be split between the State and the Town equally. He said Damon Grant was the point person on that, and had done a great job in helping to prepare a submission of the Town’s request to FEMA.

Mr. Gucciardo said damage assessment was ongoing, with Jerry Murphy and Jack Green heading up that effort. He believed an assessment of damages to particular properties was nearly complete. He was sure there would be future communication between them, FEMA and Lee County operations in terms of getting a handle of the exact extent of the damages that had been sustained and the impact on the Island.

He said the last ongoing issue was debris removal. He said it had been almost entirely relegated to horticultural waste because of the wind damage, and Matt Feeney was heading up that activity, who he said had been doing a great job coordinating with Onyx and Crowder Gulf, the Town’s and the County’s hauler, respectively. He is Phase I had been to work with Onyx, and that they were now into Phase II with Crowder Gulf.

Mr. Gucciardo said that at one point the Town had been considering the opening of a DRC (Disaster Recovery Center) set up on the Island so that residents could deal more directly with FEMA and their insurance people, but the Town had recognized

that other parts of the state were in much more need. He said there was one set up in Bonita, and Island residents had been referred to that location.

Mr. Gucciardo pointed out the article he had copied from the Naples Daily News and given to the Councilmen, in which Bonita's experiences had been chronicled. He felt it helped put things into context in terms of what the Town had learned between Charley and Wilma, and to point up that no plans were ever set to such an extent that they couldn't be tweaked and modified to adapt to actual conditions. He said Bonita experienced a learning curve this year that they hadn't gone through after Hurricane Charley, and are in the process of reassessing some of their plan as it existed and some of the things they might do differently next time. He said it was not his intention to be critical of Bonita, but just wanted the Councilmen to have something to which they could compare the Town's experiences.

Mr. Gucciardo said they were in the process of compiling an inventory of those street lights that had been affected by the storm, and asked that, if anyone knew of lights out on side streets, they call Town Hall to tell them about it. He said the eleven-digit number on each pole would make FPL's locating and fixing them easier, so if it was possible, he asked that people include that along with the street location.

In closing, Mr. Gucciardo said one thing that was different this year, as compared to last year, was that working with Town Attorney Anne Dalton before, during and after the hurricane had been very much an improvement over the Town's prior experiences. Mr. Gucciardo stressed that he was not trying to be overly negative about last year's experience, but that the back-up provided by Ms. Dalton had been much appreciated and very much an improvement as compared with the Town's prior attorney.

Mr. Gucciardo apologized if he had left anyone out who had contributed to the effort, but felt everyone on Staff had put aside what they would normally do, for which they were trained and educated, and had put on totally different hats. He felt they had all performed very well, and was very proud of them.

Councilman Reynolds asked if the horticultural debris would be picked up, even if it were not prepared to Onyx's specifications. Mr. Gucciardo said Crowder Gulf had claw trucks and were prepared to pick up non-prepped horticultural waste, although the Town had asked the residents to prepare it to Onyx's specifications. Mayor Van Duzer noted that the pick up had already begun on the south end of the Island.

Councilman Katcko commended Mr. Gucciardo and the Town Staff for the excellent job they had done before, during and after Hurricane Wilma. He said he had been kept updated on a daily basis, which he appreciated. He thought the article about Bonita's experiences this year had been very interesting, as the problems they had had were similar to the ones the Town had had last year after Charley – lack of generators, lack of communication with the public and city staff, problems with media outlets giving wrong information, Bonita city hall being without power for two

days, etc. He mentioned that he had attended a Horizon Council meeting, and they were once again going to have a small business emergency bridge loan program, and asked if the information was available at Town Hall. Mr. Gucciardo said they had received it, and that Mr. Murphy and Mr. Green had identified businesses in Town that had been affected by the storm, and they had attempted to contact each of them about the program. Councilman Katcko said he had faxed the information to some businesses himself, but had just wanted to be sure that Town Hall knew about the program and had the information available for the public.

Mayor Van Duzer said the Town Staff had done an excellent job. He added that the Town Attorney had called him personally and had told him that she would be happy to do anything, including sweeping the streets, if it would help, and would not charge for it. Ms. Dalton interjected, "Anything legal". This prompted some hearty laughter.

VII. COUNCIL MEMBERS ITEMS AND REPORT

Councilman Katcko mentioned that, depending on how the vote went the next day, this could be his last Council meeting. He took the opportunity to thank his fellow Councilmen for his appointment to the Council in May 2005. He said it had been a privilege to work on the Council, and that he had enjoyed the opportunity to have been a positive influence on the community for which he cared very deeply. He urged everyone watching the meeting on television to go to the polls and vote.

Councilman Massucco said the trip to Washington D.C. that was planned for Wednesday was very important. He hoped Mayor Van Duzer's message would reach the right ears on the trip, because the FEMA map issue was driving everyone crazy. He wished him and everyone in the delegation the best, and hoped Mayor Van Duzer would be able to come back with some good news. Councilman Massucco wished all the candidates good luck in the elections, and urged all registered voters to please get out and vote. He felt that was very important. He then mentioned that November 11th was Veterans Day, and he invited everyone to come to the VFW Post on Pine Ridge Road for a flag-raising ceremony, followed by lunch and entertainment. Councilman Massucco next talked about a phone call he had received from a Times Square merchant, who had informed him that the Segway people were soliciting people in Times Square to take test rides on the Segways. He asked if that was a form of soliciting and if it was allowed. Ms. Segal-George said it was a form of soliciting and that it was not allowed. Councilman Massucco said the Times Square merchant had confronted the Segway person and a verbal dispute had ensued. Ms. Segal-George said they would deal with it the next day. Councilman Massucco concluded his remarks by congratulating Mr. Gucciardo and the entire Town Staff for their excellent work with regard to Hurricane Wilma.

Councilman Reynolds asked what time the flag-raising ceremony would occur on Veterans Day at the VFW Post, and Councilman Massucco said it was at 11:00 AM. Councilman Reynolds said he still had questions about the film festival, and that he got news about it in bits and pieces. He asked how many years people from Town

had been traveling to Los Angeles to promote the festival, and then asked if that was an erroneous rumor. Mr. Gucciardo said he knew it had been done this year, but did not know if it had been done any other year. He said Ms. Segal-George had just informed him that it had been done the year before as well. Councilman Reynolds asked how many people took the trips, and Ms. Segal-George indicated one had gone last year and two had gone this year. Councilman Reynolds said last year's film festival had cost the Town about \$135,000 and the income had been about \$36,000. He expressed doubts about the value of the festival to the residents. He felt that it was something that needed to be looked at by Council in the future. Councilman Reynolds said that by this time tomorrow, there would be new Councilmen and the people "will have spoken", and said it could be the same ones currently in office. He asked the Town Attorney when the Councilmen would be sworn in. Ms. Dalton said a reception was already planned for November 21st at 5 PM, and the swearing in would take place immediately thereafter. Ms. Segal-George confirmed that. Councilman Reynolds asked why it was going to be so late, and Ms. Segal-George explained that it was going to take place at the next regularly scheduled Council meeting, which was November 21st. Councilman Reynolds remarked that it seemed like an awfully long time, and then said the next meeting, a land use meeting, was scheduled for November 14th. Ms. Dalton and Ms. Segal-George said that meeting had been cancelled. Mr. Murphy explained that there were no land use cases to be heard, which was why that meeting had been cancelled. Councilman Reynolds said, not knowing who was going to be on the Council, that he wanted Council to consider having the swearing-in on Monday, November 14th. He didn't see any reason to have such a delay between the elections and the swearing in, as it would be known by the next evening whom the Councilmen would be. Ms. Dalton said the reception would not be the problem, but a special meeting would have to be called, which the Charter did permit, but that the swearing in had to occur within the context of a Council meeting. Councilman Reynolds asked who had decided to have it on November 21st, and Ms. Dalton explained that the next regularly scheduled Council meeting was on that date, and it had been required to be that date because the land use meeting was cancelled due to lack of a land use case needing to be heard. Councilman Reynolds reminded to everyone to vote.

Mayor Van Duzer said he was going to Washington D.C. on Wednesday coming. He said they had a meeting already set up on Thursday with Senators and their staffs, and they had assured him that their staff would work on the FEMA map issue. He said a member of the Tourist Development Council, along with Matt Feeny of Town Staff, were also attending. He said there would be discussions with two senators and staff members with other important people in Washington D.C. He said it had been a pleasure to serve the Town on the Council, and trusted that everyone would go out and vote the next day.

VIII. TOWN MANAGER'S ITEMS

The Town Manager had no items.

IX. TOWN ATTORNEY'S ITEMS

The Town Attorney had no items.

X. PUBLIC COMMENT

No one came forward.

XI. ADJOURNMENT

MOTION: Councilman Massucco made a motion to adjourn the meeting.
Councilman Reynolds seconded the motion.

No vote was taken. Mayor Van Duzer adjourned the meeting at 9:57 PM.

Respectfully submitted,

Jo List
Transcribing Secretary